



General Assembly

January Session, 2009

Raised Bill No. 1126

LCO No. 4847

04847_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

AN ACT CONCERNING LAND RECORDS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 12-174 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2009*):

3 Any person, as owner in whole or in part of, or fiduciary having
4 control of, or interest in, any real estate, may file with the tax collector,
5 at any time within ninety days from the date when the first installment
6 of a tax, or the whole tax in case installments are not authorized, has
7 become due, and within thirty days from the date when the second or
8 any succeeding installment of a tax, all previous installments of which
9 have been paid, has become due, an affidavit showing in detail the
10 existence of unusual financial or other circumstances which justify
11 deferring collection of the tax laid upon such real estate. On receipt of
12 such affidavit, which shall request that the collection of such tax be
13 deferred, the tax collector shall, with his recommendations thereon,
14 refer the same to the selectmen if a town not consolidated with a city
15 or borough, to the common council or mayor and board of aldermen if
16 a city, to the warden and burgesses if a borough or to the governing

17 board if any other municipality, for authority to continue the lien
 18 securing such tax for a period not exceeding fifteen years. If action
 19 granting such authority is taken within sixty days from the receipt
 20 thereof, but not otherwise, the tax collector shall make out and file,
 21 within the first year after the first installment of the tax, or the whole
 22 tax in case installment payments are not authorized, has become due, a
 23 certificate containing the information required in section 12-173, and
 24 the town clerk shall record such certificate; provided, (1) the tax
 25 collector shall notify the owner of such real estate of the intent to file a
 26 lien by mail not later than fifteen days prior to the filing of such lien,
 27 and (2) if such affidavit is approved with respect to any installment,
 28 the succeeding installments, if any, shall become due and payable from
 29 the due date of such installment, and such certificate shall be made out
 30 and recorded to secure payment of all unpaid installments of such tax.
 31 Failure to notify such owner of the intent to file a lien shall not affect
 32 the validity of the lien. Each tax, the lien for which has been continued
 33 by certificate under the provisions of this section, shall not be subject to
 34 interest as provided by section 12-146. Each lien continued by
 35 certificate under the provisions of this section shall be subject to
 36 foreclosure at any time, but shall be invalid after the expiration of
 37 fifteen years from the date of recording the certificate continuing the
 38 same, unless an action of foreclosure has been commenced within such
 39 time. After the expiration of such period of fifteen years, if such action
 40 has not been commenced, the [town clerk] tax collector then in office
 41 shall, upon the request of any interested person, discharge such lien of
 42 record by [noting on the margin thereof the words "Discharged by
 43 operation of law", together with the date and his signature] recording a
 44 discharge of lien in the office of the town clerk of the town in which
 45 such real estate is situated.

46 Sec. 2. Section 12-175 of the general statutes is repealed and the
 47 following is substituted in lieu thereof (*Effective October 1, 2009*):

48 In addition to the method of procuring the continuance of the lien
 49 provided in section 12-174, as amended by this act, the tax collector of

50 any municipality may continue any tax lien upon any item of real
 51 estate by making out a certificate containing the information required
 52 by the provisions of section 12-173. Each certificate authorized by the
 53 provisions of this section shall be filed in the office of the town clerk of
 54 the town in which such real estate is situated not later than two years
 55 after the first installment of the tax, or the whole tax in case installment
 56 payments are not authorized, has become due, and the town clerk shall
 57 record such certificate in the land records of such town, provided the
 58 tax collector shall notify the owner of such real estate of the intent to
 59 file a lien by mail not later than fifteen days prior to the filing of such
 60 lien. Failure to notify such owner shall not affect the validity of the
 61 lien. Each such tax, as it may have been increased by interest, fees and
 62 charges provided for by law, shall remain a lien upon such real estate
 63 from the date of the filing of such certificate; and any tax lien so
 64 continued, when the amount due has been paid, may be discharged by
 65 a certificate of the then tax collector of taxes recorded in such land
 66 records; but any tax lien upon private property which has been
 67 recorded in the land records of any town for more than fifteen years
 68 from the due date of the tax shall be invalid, and such property shall
 69 be free from the encumbrance of such lien, unless an action of
 70 foreclosure has been commenced during such period of fifteen years
 71 and a notice of lis pendens filed for record, and the [town clerk] tax
 72 collector shall, if no such notice has been filed, upon the request of any
 73 interested person, discharge such lien of record by [noting on the
 74 margin of such record the words, "Discharged by operation of law"]
 75 recording a discharge of lien in the office of the town clerk of the town
 76 in which such real estate is situated.

77 Sec. 3. Section 47-70a of the general statutes is repealed and the
 78 following is substituted in lieu thereof (*Effective October 1, 2009*):

79 (a) The declaration shall be amended only by vote of two-thirds of
 80 the unit owners, and the bylaws shall be amended by vote of a
 81 majority of unit owners, at any meeting of the unit owners' association
 82 duly called for either purpose, following written notice to all unit

83 owners and their mortgagees appearing on the records of the
84 association, except that if such amendment whether of the declaration
85 or of the bylaws directly or indirectly changes the boundaries of any
86 unit, the undivided interest in the common elements appertaining
87 thereto, the liability for common elements appertaining thereto, the
88 liability for common expenses or rights to common profits
89 appertaining thereto, or the number of votes in the unit owners'
90 association appertaining thereto, such amendment shall require the
91 affirmative vote of seventy-five per cent of the unit owners and shall,
92 in addition, require the consent of the mortgagees of at least seventy-
93 five per cent of the units subject to mortgage.

94 (b) The declarant may require a unit owner or purchaser to execute
95 and to deliver to the declarant a power of attorney or other document
96 assigning to the declarant the right of a unit owner to vote on the
97 amendment of condominium instruments pursuant to subsection (a) of
98 this section, provided such power of attorney or other document shall
99 be exercised or implemented only to amend the condominium
100 instruments for the purpose of adding additional land in an
101 expandable condominium pursuant to section 47-71a, and to reallocate
102 the undivided interests in the common elements resulting from such
103 expansion pursuant to subsection (c) of section 47-74, and the power of
104 attorney or other document shall be expressly so limited.

105 (c) Notwithstanding any other provision of this chapter or the
106 condominium instruments, the designation of the agent for the service
107 of process named in the declaration may be changed from time to time
108 by recording in the land records wherein the declaration is recorded
109 the instrument for designation of an agent for service of process, which
110 if the association is incorporated, shall be a copy of the instrument
111 transmitted to the Secretary of the State or if not incorporated, an
112 instrument including the same information as such an instrument for
113 designation of agent. In addition, the instrument for designation shall
114 refer to the volume and first page of the original condominium
115 instruments. [and a marginal notation thereon shall be made by the

116 town clerk of such change.]

117 Sec. 4. Section 47-270 of the general statutes is repealed and the
118 following is substituted in lieu thereof (*Effective October 1, 2009*):

119 (a) Except in the case of a sale in which delivery of a public offering
120 statement is required under either this chapter or chapter 825, or
121 unless exempt under subsection (b) of section 47-262, a unit owner
122 shall furnish to a purchaser or such purchaser's attorney, before the
123 earlier of conveyance or transfer of the right to possession of a unit, a
124 copy of the declaration, other than any surveys and plans, the bylaws,
125 the rules or regulations of the association, and a certificate containing:
126 (1) A statement disclosing the effect on the proposed disposition of any
127 right of first refusal or other restraint on the free alienability of the unit
128 held by the association; (2) a statement setting forth the amount of the
129 periodic common expense assessment and any unpaid common
130 expense or special assessment currently due and payable from the
131 selling unit owner; (3) a statement of any other fees payable by the
132 owner of the unit being sold; (4) a statement of any capital
133 expenditures in excess of one thousand dollars approved by the
134 executive board for the current and next succeeding fiscal year; (5) a
135 statement of the amount of any reserves for capital expenditures; (6)
136 the current operating budget of the association; (7) a statement of any
137 unsatisfied judgments against the association and the existence of any
138 pending suits in which the association is a defendant; (8) a statement of
139 the insurance coverage provided for the benefit of unit owners; (9) a
140 statement of any restrictions in the declaration affecting the amount
141 that may be received by a unit owner on sale, condemnation, casualty
142 loss to the unit or the common interest community or termination of
143 the common interest community; (10) in a cooperative, an accountant's
144 statement, if any was prepared, as to the deductibility for federal
145 income tax purposes by the unit owner of real property taxes and
146 interest paid by the association; (11) if the association is
147 unincorporated, the name of the statutory agent for service of process
148 filed with the Secretary of the State pursuant to section 47-244a; (12) a

149 statement describing any pending sale or encumbrance of common
150 elements; and (13) a statement disclosing the effect on the unit to be
151 conveyed of any restrictions on the owner's right to use or occupy the
152 unit or to lease the unit to another person.

153 (b) (1) Not later than ten business days after receipt of a written
154 request from a unit owner and payment by the unit owner of a fee
155 established by the association that reflects the actual printing,
156 photocopying and related costs, but in no event in excess of one
157 hundred twenty-five dollars, for the preparation of the certificate and
158 other documents, the association shall furnish a certificate containing
159 the information necessary to enable the unit owner to comply with this
160 section and any other documents required by this section. The
161 association shall itemize the actual printing, photocopying and related
162 costs and provide a list of the itemized costs to the unit owner with the
163 certificate and documents. An additional fee of not more than ten
164 dollars for expedited preparation may be established if the certificate
165 and all required documents are furnished to the unit owner not later
166 than three business days after the written request is received by the
167 association. No fee under this subsection may include costs for services
168 provided by an attorney or paralegal.

169 (2) A unit owner providing a certificate and documents pursuant to
170 subsection (a) of this section is not liable to the purchaser for any
171 erroneous information provided by the association and included in the
172 certificate and documents.

173 (c) A purchaser is not liable for any unpaid assessment or fee greater
174 than the amount set forth in the certificate prepared by the association.
175 A unit owner is not liable to a purchaser for the failure or delay of the
176 association to provide the certificate and documents in a timely
177 manner, but the purchase contract is voidable by the purchaser until
178 (1) the expiration of five days, excluding Saturdays, Sundays and legal
179 holidays, after the certificate and documents have been delivered to
180 such purchaser or such purchaser's attorney, or seven days, excluding

181 Saturdays, Sundays and legal holidays, after the certificate and
182 documents have been sent by registered or certified mail or mail
183 evidenced by a certificate of mailing to such purchaser or such
184 purchaser's attorney, or (2) conveyance, whichever first occurs.

185 (d) A dealer who offers a unit which he owns shall, in addition to
186 the material provided to a purchaser or such purchaser's attorney
187 under subsection (a) of this section, furnish to such purchaser or such
188 purchaser's attorney a copy of any public offering statement that the
189 dealer received at the time he purchased his unit.

190 (e) The association shall, during the month of January in each year,
191 [file] record in the land records in the office of the town clerk of the
192 municipality or municipalities where such common interest
193 community is located a certificate setting forth the name and mailing
194 address of the officer of the association or the managing agent from
195 whom a resale certificate may be requested, and shall, thereafter, [file]
196 record in the land records such a certificate within thirty days of any
197 change in the name or address of such officer or agent. [The town clerk
198 shall keep such certificate on file in his office and make it available for
199 inspection.]

200 Sec. 5. Section 49-13 of the general statutes is repealed and the
201 following is substituted in lieu thereof (*Effective October 1, 2009*):

202 (a) When the record title to real property is encumbered (1) by any
203 undischarged mortgage, and (A) the mortgagor or those owning the
204 mortgagor's interest therein have been in undisturbed possession of
205 the property for at least six years after the expiration of the time
206 limited in the mortgage for the full performance of the conditions
207 thereof, and for six years next preceding the commencement of any
208 action under this section, or (B) the promissory note or other written
209 evidence of the indebtedness secured by the mortgage is payable on
210 demand and seventeen years have passed without any payment on
211 account of such note or other written evidence of indebtedness, or (C)
212 the mortgage does not disclose the time when the note or indebtedness

213 is payable or disclose the time for full performance of the conditions of
214 the mortgage and ten years have passed without any payment on
215 account of the promissory note or other written evidence of
216 indebtedness, or (D) the note or evidence of indebtedness has been
217 paid or a bona fide offer and tender of the payment has been made
218 pursuant to section 49-8, or (E) the mortgage has become invalid, and
219 in any of such cases no release of the encumbrance to secure such note
220 or evidence of indebtedness has been given, or (2) by a foreclosed
221 mortgage and the mortgagor has made a bona fide offer and tender of
222 payment of the foreclosure judgment on or before the mortgagor's law
223 day and the mortgagee has refused to accept payment, or (3) by an
224 attachment, lis pendens or other lien which has become of no effect,
225 the person owning the property, or the equity in the property, may
226 bring a petition to the superior court for the judicial district in which
227 the property is situated, setting forth the facts and claiming a judgment
228 as provided in this section. The plaintiff may also claim in the petition
229 damages as set forth in section 49-8 if the plaintiff is aggrieved by the
230 failure of the defendant to execute the release prescribed in said
231 section.

232 (b) The petition shall be served upon all persons interested in the
233 mortgage, attachment, lis pendens or other lien in the manner
234 provided by law for process in civil actions and, in any action where
235 the parties who may have an interest in the property and should be
236 made parties thereto cannot be located by and are unknown to the
237 petitioner in the action, the petitioner or the petitioner's attorney shall
238 annex to the petition in the action an affidavit stating that the
239 petitioner does not know who the interested parties are or where they
240 reside, or, if the party interested in the property is a corporation whose
241 corporate existence has been legally terminated, or the corporation is
242 no longer in existence or doing business, and the petitioner or the
243 petitioner's attorney states that fact in an affidavit, the court to which
244 the action is brought or the clerk, assistant clerk or any judge thereof
245 may make such order relative to the notice which shall be given in the
246 cause as the court, clerk, assistant clerk or judge deems reasonable.

247 (c) Such notice having been given according to the order and duly
 248 proven, the court may proceed to a hearing of the cause at such time as
 249 it deems proper, and, if no evidence is offered of any payment on
 250 account of the debt secured by the mortgage within a period set out in
 251 subsection (a) of this section, or of any other act within such a period
 252 as provided in said subsection (a) in recognition of its existence as a
 253 valid mortgage, or if the court finds the mortgage has been satisfied
 254 but no release given as evidence of such satisfaction, or if the court
 255 finds that a bona fide offer and tender of payment of the foreclosure
 256 judgment or mortgage has been made and refused, or if the court finds
 257 the attachment, lis pendens or other lien has become of no effect, the
 258 court may render a judgment reciting the facts and its findings in
 259 relation thereto and declaring the mortgage, foreclosure judgment,
 260 attachment, lis pendens or other lien invalid as a lien against the real
 261 estate, and may order payment of any balance of indebtedness due on
 262 the mortgage or foreclosure judgment to the clerk of the court to be
 263 held for the benefit of the mortgagee or the persons interested and to
 264 be paid to the mortgagee by the clerk of the court upon application of
 265 the mortgagee or persons interested following the execution of a
 266 release of mortgage.

267 (d) Upon deposit of the balance of indebtedness with the clerk, such
 268 judgment shall issue, which judgment shall, within thirty days
 269 thereafter, be recorded in the land records of the town in which the
 270 property is situated, and the encumbrance created by the mortgage,
 271 foreclosure judgment, attachment, lis pendens or other lien shall be
 272 null and void and totally discharged. [The town clerk of the town in
 273 which the real estate is situated shall, upon the request of any person
 274 interested, endorse on the record of the encumbrance or lien the words
 275 "discharged by judgment of the Superior Court", and list the volume
 276 and page number in the land records where the judgment is recorded.]

277 Sec. 6. Section 49-88 of the general statutes is repealed and the
 278 following is substituted in lieu thereof (*Effective October 1, 2009*):

279 A lien on real estate arising under the provisions of section 49-86
 280 shall not continue in force as a lien for a longer period than fifteen
 281 years after the date thereof unless within said period an action on the
 282 bond in connection with which the notice of lien was filed has been
 283 prosecuted to effect and a judgment lien against the surety filed
 284 according to law. All liens on real estate which have expired under the
 285 provisions of this section shall be deemed dissolved and the real estate
 286 shall be free from any lien or encumbrance by reason of the same and
 287 the town clerk of the town in which the real estate is situated shall,
 288 upon the request of any person interested, [endorse on the record of
 289 the notice of lien the words "discharged by operation of law"]
 290 discharge such lien of record by recording a discharge of lien in the
 291 office of the town clerk of the town in which such real estate is
 292 situated.

293 Sec. 7. Section 49-90 of the general statutes is repealed and the
 294 following is substituted in lieu thereof (*Effective October 1, 2009*):

295 If any lien arising under the provisions of section 49-86 has been
 296 made and the plaintiff has withdrawn his suit or has been nonsuited or
 297 final judgment has been rendered against him, or if such suit has not
 298 been returned, or if for any reason such lien has become of no effect,
 299 the clerk of the court to which such suit has been made returnable
 300 shall, upon the request of any person interested, issue a certificate in
 301 accordance with the facts, which certificate may be [filed] recorded in
 302 the office of the town clerk [, and such town clerk shall note on the
 303 margin of the record where such lien is recorded] of the town in which
 304 the real estate is situated.

305 Sec. 8. Section 49-91 of the general statutes is repealed and the
 306 following is substituted in lieu thereof (*Effective October 1, 2009*):

307 In any proceeding wherein a lien has been filed pursuant to the
 308 provisions of section 49-86, if the plaintiff therein has received
 309 satisfaction for his claim, or final judgment has been rendered against
 310 him thereon, or when for any reason the lien has become of no effect,

311 the plaintiff or his attorney, at the request of any person interested in
 312 the estate liened or in having the lien removed, shall [lodge] record a
 313 certificate [with the town clerk] that the lien is removed [. Each such
 314 certificate shall be recorded at length in a book kept for that purpose
 315 by] with the town clerk as a part of the land records of the town
 316 wherein the property affected by the release is located or wherein the
 317 notice of lien was filed.

318 Sec. 9. Section 52-322 of the general statutes is repealed and the
 319 following is substituted in lieu thereof (*Effective October 1, 2009*):

320 When the estate of any person has been attached in any proceeding
 321 wherein a certificate of such attachment or a copy of the writ or
 322 proceeding is required by law to be filed in the office of the town clerk,
 323 and the plaintiff therein has received satisfaction for his claim, or final
 324 judgment has been rendered against him thereon, or when for any
 325 reason such attachment has become of no effect, such plaintiff or [his]
 326 the plaintiff's attorney, at the request of any person interested in the
 327 estate attached or in having the attachment lien removed, shall [lodge]
 328 record a certificate with such town clerk that such attachment is
 329 dissolved and such lien removed. Each such certificate shall be
 330 recorded [at length in a book kept for that purpose] by such clerk as a
 331 part of the land records of the town wherein the property affected by
 332 the release is located or wherein the certificate of attachment was filed.

333 Sec. 10. Section 52-324 of the general statutes is repealed and the
 334 following is substituted in lieu thereof (*Effective October 1, 2009*):

335 If an attachment, such as is set forth in section 52-322, as amended
 336 by this act, has been made and the plaintiff has withdrawn [his] the
 337 plaintiff's suit or has been nonsuited or final judgment has been
 338 rendered against [him] the plaintiff, or if such suit has not been
 339 returned, or if for any reason such attachment has become of no effect,
 340 the clerk of the court to which such suit has been made returnable
 341 shall, upon the request of any person interested, issue a certificate in
 342 accordance with the facts, which certificate may be [filed] recorded in

343 the office of the town clerk, and shall by such town clerk be noted on
344 the margin of the record where such attachment is recorded.]

345 Sec. 11. Section 52-327 of the general statutes is repealed and the
346 following is substituted in lieu thereof (*Effective October 1, 2009*):

347 No attachment of real estate shall continue in force as a lien for a
348 longer period than fifteen years after the date thereof unless within
349 said period the action in which such attachment was made has been
350 prosecuted to effect and a judgment lien filed according to law. All
351 attachments of real estate which have expired as a lien by the
352 provisions of this section shall be deemed dissolved and the real estate
353 shall be free from any lien or encumbrance by reason of the same and
354 the [town clerk of the town in which such real estate is situated shall,
355 upon the request of any person interested, endorse on the record of
356 such attachment the words "discharged by operation of law"] plaintiff
357 or the plaintiff's attorney, at the request of any person interested in the
358 estate attached or in having the attachment lien removed, shall record
359 a certificate with such town clerk that such attachment is dissolved and
360 such lien removed. Each such certificate shall be recorded by such
361 clerk as a part of the land records of the town wherein the property
362 affected by the release is located or wherein the certificate of
363 attachment was filed.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2009</i>	12-174
Sec. 2	<i>October 1, 2009</i>	12-175
Sec. 3	<i>October 1, 2009</i>	47-70a
Sec. 4	<i>October 1, 2009</i>	47-270
Sec. 5	<i>October 1, 2009</i>	49-13
Sec. 6	<i>October 1, 2009</i>	49-88
Sec. 7	<i>October 1, 2009</i>	49-90
Sec. 8	<i>October 1, 2009</i>	49-91
Sec. 9	<i>October 1, 2009</i>	52-322
Sec. 10	<i>October 1, 2009</i>	52-324

Sec. 11	October 1, 2009	52-327
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Statement of Purpose:

To make minor and technical changes to certain land records statutes, including changes required to implement the Uniform Real Property Electronic Recording Act.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]